

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

CR 07-30 SBA

Plaintiff,

v.

MODIFIED STIPULATION AND
ORDER TO CONTINUE STATUS
CONFERENCE

FERNANDO AGUILAR and
GUSTAVO AGUILAR,

Date: June 3, 2008
Time: 11:00 a.m.

Defendants.

_____ /

THE PARTIES HEREBY STIPULATE AND AGREE that the status and
motions hearing now set for the date and time indicated above,
may be continued to 11:00 a.m. on July 1, 2008.

This continuance is predicated on the need for further
time to engage in settlement discussions. The attorneys have
been engaged in ongoing discussions with the defendants and
their respective families. Based on recent discovery of addi-
tional evidence, more time is needed to discuss the ramifica-
tions of this additional discovery, should this case proceed to
trial.

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1 Moreover, the defendants desire to engage in a second
2 settlement conference with Magistrate Brazil, at the Magis-
3 trate's invitation. All parties believe that the additional
4 time requested could promote settlement of this case in lieu of
5 trial.

6 IT IS STIPULATED that the period from June 3, 2008, to
7 July 1, 2008, shall be excluded from the calculation of time in
8 which the trial of the above-captioned matter must commence
9 pursuant to the Speedy Trial Act, 18 U.S.C. section 3161(c).
10 The parties stipulate that the time is excludable from the time
11 limitations of the Speedy Trial Act because the interests of
12 justice are served by granting a continuance.

13 This continuance will permit continuity of counsel, and
14 allow the reasonable time necessary for effective preparation,
15 taking into account the exercise of due diligence. 18 U.S.C.
16 sections 3161(h)(8)(A) and (B)(iv).

17 Further, time is excluded pursuant to 18 U.S.C. sections
18 3161(h)(1)(F) predicated upon defense motions still pending and
19 under submission by the court, which excludes delay resulting
20 from any pretrial motion from the filing of the motion through
21 the conclusion of the hearing on or other prompt disposition of
22 such motion.

23 For the foregoing reasons, the parties stipulate and agree
24 that the ends of justice served by the continuance requested
25 herein outweigh the best interests of the public and the defen-
26 dant in a speedy trial because the failure to grant such a
27 continuance would unreasonably deny the defendant continuity of
28 counsel.

1 Dated:

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3 /s/ KIMBERLY BRIGGS
KIMBERLY BRIGGS
4 Assistant U.S. Attorney

/s/ SHARI L. WHITE
SHARI L. WHITE
Attorney for GUSTAVO AGUILAR

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6 /s/ TONY SERRA
TONY SERRA
SARA ZALKIN
7 Attorneys for FERNANDO AGUILAR

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9 **ORDER**

10 Based on the reasons provided in the stipulation of the
11 parties above, the Court hereby finds:

12 That the period from June 3, 2008, to July 1, 2008, shall
13 be excluded from the calculation of time in which the trial of
14 the above-captioned matter must commence pursuant to the Speedy
15 Trial Act, 18 U.S.C. section 3161(c);

16 That the time is excludable from the time limitations of
17 the Speedy Trial Act because the interests of justice are served
18 by granting a continuance;

19 That this continuance will permit continuity of counsel,
20 and allow the reasonable time necessary for effective prepara-
21 tion, taking into account the exercise of due diligence. 18
22 U.S.C. sections 3161(h)(8)(A) and (B)(iv);


23 That time is excluded pursuant to 18 U.S.C. sections
24 3161(h)(1)(F) predicated upon defense motions still pending and
25 under submission by the court, which excludes delay resulting
26 from any pretrial motion from the filing of the motion through
27 the conclusion of the hearing on or other prompt disposition of
28 such motion;

1 That the ends of justice served by the continuance
2 requested herein outweigh the best interests of the public and
3 the defendant in a speedy trial because the failure to grant
4 such a continuance would unreasonably deny the defendant
5 continuity of counsel.

6 Based on these findings, IT IS HEREBY ORDERED THAT the
7 status and motions hearing be continued from 11:00 a.m. on June
8 3, 2008, to 11:00 a.m. on July 1, 2008, and that time is
9 excluded under the Speedy Trial Act pursuant to 18 U.S.C.
10 sections 3161(c), 3161(h)(8)(A) and (B)(iv), and 3161(h)(1)(F).

11 **IT IS SO ORDERED.**

12 Dated:6/3/08

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15 SAUNDRA BROWN ARMSTRONG Judge
16 United States District Court
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